A. FIR.

HIGH COURT OF CHHATTISGARH: BILASPUR
S.B. HON'BLE SHRI VIJAY KUMAR SHRIVASTAVA, J
CIVIL REVISION NO. 140/2004

PETITIONERS:

1) R.S. Chaturvedi, s/o. late Yadhisthir Chaturvedi, aged about 75 years, Retired Deputy Collector.

2) Kamla Chaturvedi, w/o.R.S. Chaturvedi, aged about 72 years.

3) Sunil Chaturvedi, s/o. R.S. Chaturvedi, aged about 39 years.

4) Maya Chaturvedi, d/o. Shri R.S. Chaturvedi, aged about 42 years.

5) Mrityunjay Chaturvedi, s/o. Shri R.S. Chaturvedi, aged about 45 years. all r/o. 27 Kholi, Vikas Nagar, Bilaspur.

Vs.

RESPONDENT

Snehlata Chaturvedi, d/o. Bhagwan Deen Sharma, aged about 43 years, occupation-Excise Inspector in the Excise Department. Bilaspur (CG).

PRESENT:

Shri Rajeev Shrivastava, Counsel for the petitioners.

Shri Rajeev Bharat, Counsel for the respondent.

O R D E R

(Passed on 21/06/2005)

This revision is directed against the order dated 03/08/2004 passed by the District Judge, Sarguja, Ambikapur in Misc. Civil Appeal No.2/2004.

(49)

2) Respondent/applicant Smt. Snehlata Chaturvedi filed an application under Section 372 of the Indian Succession Act, for grant of succession certificate in respect of various amounts due for payment on the death of her husband - Anil Chaturvedi. Petitioner R.S. Chaturvedi and objectors Smt. Kamla Chaturvedi, Mrityunjay Chaturvedi and Sunil Chaturvedi denied the fact that Smt. Snehlata Chaturvedi is the wife of Anil Chaturvedi and instead pleaded that Anil Chaturvedi was in Government service who during his life time made nomination and nominated his father - R.S. Chaturvedi, mother - Kamla Chaturvedi, brothers - Sunil Chaturvedi and Mrityunjay Chaturvedi for receiving the amount due on his death.

3) Civil Judge, Class-1, Sarguja, Ambikapur, after evaluating the evidence on record vide order dated 20/02/2004 passed in Succession Case No.04/2000, held that Smt. Snehlata Chaturvedi alone is the successor of deceased Anil Chaturvedi. The nomination made by Anil Chaturvedi in favour of his mother, father, brother and sister cannot be treated as successors on his death as after marriage of Anil Chaturvedi only his wife and children were members of his family, therefore, allowed the application and granted succession certificate in favour of Smt. Snehlata Chaturvedi. Against that order appeal was preferred by the petitioners before the Court of District Judge, Sarguja. Vide impugned order dated 03/08/2004 passed in Misc. Civil Appeal No.2/2004 the appellate Court dismissed the interim application filed by the petitioners for amendment, refused to accept the

(50)

contention raised by the petitioners regarding non-verification of original application and after due evaluation of whole evidence held that Smt. Snehlata Chaturvedi was legally wedded wife of deceased Anil Chaturvedi and accordingly dismissed the appeal.

5) Learned counsel for both the parties are heard and record of Court below perused.

6) Learned counsel appearing for the petitioners frankly submitted that the petitioners are not assailing the ground that Snehlata Chaturvedi is not the legally wedded wife of deceased Anil Chaturvedi. During arguments, petitioners' contention is that Smt. Kamla Chaturvedi being the mother of deceased Anil Chaturvedi, was also legal heir in accordance with Section 8 and Schedule 1 of The Hindu Succession Act, 1956, therefore, her right to receive the amount could not have been ignored by the Court below. On the other hand, learned counsel appearing for the respondent submits that if Smt.Kamla Chaturvedi being mother of deceased Anil Chaturvedi has any right to succeed the property in accordance with Section 8 and Schedule 1 of the Hindu Succession Act, she can get her right declared by the Civil Court and accordingly receive her share.

7) It is not in dispute that Anil Chaturvedi, during his life time in accordance with service condition, had executed nomination for payment of amount due on his death and nominated his mother Smt. Kamla Chaturvedi. The Hindu Succession Act, 1956 is applicable to the parties and according to

(51)

Section 8 of the Hindu Succession Act, the property of Anil Chaturvedi shall devolve upon the heir specified in Clause 1 of Schedule - 1 where mother has been kept at par with widow, therefore, mother has also right to succeed the property of her son on his death.

8) Learned counsel appearing for the petitioners frankly submits that he is not assailing the other grounds raised in memo of appeal.

9) A nomination without conferring any legal right to inherit the property by succession only permits the person in whose favour nomination has been made to receive the amount. Wife is also legal heir of the deceased in accordance with Section 8 of Schedule 1 of the Hindu succession Act, 1956. Section 373 of the Indian Succession Act, 1925, empowers the Court to determine the dispute summarily and grant the certificate to the claimant if it appears to the Court that the claimant having prima facie the best title. Smt. Kamla Chaturvedi - mother of the deceased Anil Chaturvedi, has not filed any application in accordance with Section 372 of the Indian Succession Act to grant the succession certificate whereas respondent, the wife of Anil Chaturvedi, only applied for it, therefore, succession certificate granted in her favour by the Court below does not call for any interference. However, the mother being legal heir has a right to obtain her share over the disputed property in accordance with law.

(52)

12 With the aforesaid observations the revision is dismissed.

Parties to bear their own costs.

Sd//-
V.K.Shrivastava
Judge

Raju